

OFFICE OF THE ATTORNEY GENERAL



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Honorable Lucy Baxley
State of Alabama
State Treasurer
Montgomery, AL 36130

Treasurer - Electronic
Records - Fees - Refunds

The state treasurer may charge a person requesting electronically stored information for the treasurer's costs in accessing the information provided the fee is reasonable.

Dear Ms. Baxley:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION 1

Can the state treasurer charge the person requesting electronically stored information for the treasurer's costs in accessing the information provided?

FACTS AND ANALYSIS

In your request for an opinion you have provided the following facts:

The State Treasurer is responsible for maintaining certain financial records of the State of Alabama. As a result of

automation, many of these records are now stored electronically.

As this electronically stored information is subject to public access, the State Treasurer incurs the following costs when providing the information to the public:

the employee's time; use, wear and tear of a computer terminal; printer time; and other related expenses.

Section 36-12-41, Code of Alabama 1975, provides that every public officer having custody of a public writing which a citizen has a right to inspect is required to provide the citizen with a certified copy thereof upon the payment of the legal fees therefor. Thus, there is statutory authority for the collection of fees to defray the costs of providing a citizen with information retained by public officers. Further, this office has issued several previous opinions stating that a reasonable fee may be charged for providing copies of records. Attorney General's opinion to Steve Windom, dated January 22, 1990, A.G. No. 90-00105; Attorney General's opinion to Perry Hand, dated February 16, 1990, A.G. No. 90-00145; Attorney General's opinion to Wayland Cooley, dated November 4, 1987, A.G. No. 88-00047. A "reasonable fee" has been interpreted to mean the actual costs incurred in providing the information to the public. Opinion to Wanda Parker, dated October 26, 1990, A.G. No. 91-00046. Thus, the fee charged should be limited to the actual costs of providing the information to the public, so long as those costs are reasonable. An excessive fee should not be charged as the public's right to a copy of public records should not be restricted.

The courts have determined that "computer tapes" are public writings to which the public must be provided access under § 36-12-40, Code. The Birmingham News Company v. Mark D. Perry and Alabama Department of Public Safety, Montgomery County Circuit Court, CV 93-930-PR, dated July 22, 1993. Electronically stored information must be made available to the public upon the payment of a reasonable cost therefore.

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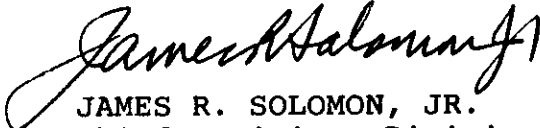
CONCLUSION

The state treasurer may charge a person requesting electronically stored information for the treasurer's costs in accessing the information provided so long as the fee is reasonable.

I hope this sufficiently answers your question. If our office can be of further assistance, please contact Jane L. Brannan of my staff.

Sincerely,

JEFF SESSIONS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

JS/JLB/jho

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